



# **THE ATTORNEY GENERAL OF TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

**AUSTIN, TEXAS**

**October 1, 1949**

Hon. Robert S. Calvert  
Comptroller of Public Accounts  
Austin, Texas

**Opinion No. V-920**

**Re: Salary of district  
judges and criminal  
district judges dur-  
ing current biennium  
beginning September  
1, 1949.**

Dear Sir:

Reference is made to your request for an opinion which, in part, reads as follows:

"Upon the passage of House Bill Number 207, Acts of the Regular Session of the Fifty-first Legislature, this Department sent the enclosed form letter to all the district judges of this State explaining the situation regarding the salary the district judges would receive from the State beginning September 1, 1949 and extending through October 4, 1949. It was our construction that House Bill Number 207 was a ninety day bill and will not come effective until October 5, 1949. It was further the construction of this Department that said House Bill Number 207 was not retroactive, and that district judges would be paid the period beginning from September 1, 1949, through October 4, 1949, a salary at the rate of \$6,000.00 per annum under Article 6819a-4 R.C.S.

"We now have a letter brief from the district judges of the Tenth Judicial District and from the Fifty-sixth Judicial District to the effect that House Bill Number 207 is retroactive in nature, and that on October 5, 1949, this Department would be authorized to issue warrant in payment of salaries to district judges on a rate of \$7,000.00 per annum covering the period from September 1st through October

5th.

"I shall thank you to advise this Department whether or not House Bill Number 207 is retroactive in nature and whether or not after its effective date on October 5, 1949, this Department would be authorized to issue warrant to pay the district judges salaries at the rate of \$7,000.00 per annum for the period beginning September 1, 1949 and extending through October 4, 1949.

"There is no question about the salary after October 5, 1949. There is also no question or controversy over the appropriation for the payment of this salary."

The pertinent provisions of Section IX of Senate Bill No. 11, Acts 1947, 50th Legislature, Chapter 42, page 54 (Art. 6819a-4, V.C.S.), read as follows:

"From and after August 31, 1947, . . . The Judges of the several District Courts of the State of Texas and of the Criminal District Courts of this state shall each be paid an annual salary of Six Thousand (\$6,000.00) Dollars."

This Act contained an emergency clause and was adopted by both Houses by the necessary two-thirds vote of all the members elected to each House and approved by the Governor March 18, 1947, whereupon it became effective. Tex.Const.Art.III, Sec.39.

The pertinent provisions of House Bill No. 207, Acts 51st Legislature, Chapter 328, page 614 (Art.6819a-6, V.C.S.), are:

"Section 1. From and after August 31, 1949, . . . (c) The Judges of the several District Courts of the State of Texas and of the Criminal District Courts of this State shall each be paid an annual salary of Seven Thousand Dollars (\$7,000).

"(e) Each District Judge in this State shall be paid an annual salary of Seven Thousand Dollars (\$7,000) from State funds, provided that no District Judge shall receive as supplemental pay thereto from any county funds a sum in excess of Twenty-nine Hundred Dollars (\$2,900) per annum for services rendered as a member of a Juvenile Board.

"Sec. 2. Senate Bill No. 11, Chapter 42, page 54, Acts of the Fiftieth Legislature and all laws and parts of laws in conflict with this Act, are hereby repealed."

Section 3 declares the provisions of the Act to be severable. Section 4 is an emergency clause.

House Bill No. 207 passed the House on May 23, 1949, by a vote of 94 yeas; passed the Senate on May 26, 1949, by a vote of 20 yeas, and was approved by the Governor June 6, 1949. The 51st Legislature adjourned on July 6, 1949.

In the brief mentioned in your request, it is admitted that House Bill 207 does not become effective until October 5, 1949. We agree with that admission. The only contention made in the brief is that when this Act does become effective it will, in so far as these salaries are concerned, relate back to and become operative on September 1, 1949 for such was the intention of the Legislature. We do not deem it necessary to pass upon the question raised by this contention, for reasons hereafter stated.

The title of House Bill No. 320, Acts 51st Legislature, Chapter 585, among other things not pertinent to our question, reads:

"An Act making an appropriation for the support and maintenance of the Judiciary of the State of Texas for the biennium beginning September 1, 1949, and ending August 31, 1951 . . . suspending all laws in conflict herewith . . . and declaring an emergency."

Item 1 of House Bill 320, page 1166, makes an appropriation of \$952,000 for each year of the current biennium to pay:

"Salaries of 136 District Judges and Criminal District Judges at \$7,000 per year

which shall include 118th and 134th Districts."

Section 9 of the general riders attached to House Bill No. 320 provides:

"All laws and parts of laws in conflict herewith are hereby suspended for the period of the biennium for which this appropriation is made."

The rule is that laws cannot be amended or repealed by general appropriation bills when such changes constitute a separate and additional subject or purpose. (Art. III, Sec. 35, Texas Const.). However, this does not apply to the provisions of House Bill 320 now under consideration. They relate to and comprise a single subject. Since both the title and body of House Bill No. 320 provide for the suspension of all laws in conflict with its provisions, and the fact that the suspension of such laws is incidental to its subject (appropriations), including salaries of district judges and criminal district judges, we are not prepared to say that the provisions of Section 9 do not have the effect of suspending the provisions of Senate Bill No. 11, Acts 50th Legislature, for the period of the biennium beginning September 1, 1949.

You are therefore advised it is the opinion of this office that the salaries of district judges and criminal district judges have been fixed by the Legislature at \$7,000 per annum for the current biennium, beginning September 1, 1949, payable in twelve equal monthly installments, as provided in House Bill No. 320.

#### SUMMARY

The Legislature has fixed the salaries of district judges and criminal district judges for the biennium beginning September 1, 1949, at \$7,000 per annum, payable in twelve equal monthly

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installments. H.B. No.320, Acts 51st Leg.,  
Ch. 585, p.1160, et seq.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

*Bruce W. Bryant*

By

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Assistant

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APPROVED

*Price Daniel*  
ATTORNEY GENERAL